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and MITCHELL SLAUGHTER

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KRISTINA ENNIX SLAUGHTER and
MITCHELL SLAUGHTER,

Plaintiffs,

vs.

CITY OF EMERYVILLE, EMERYVILLE
POLICE DEPARTMENT, E. WHITE (#307)
and S. ANDRETICH (#339), individually and
in their official capacities; VICTORIA'S
SECRET, CLAUDIA SOTO,
ABERCROMBIE & FITCH, and MELISSA
BASFIELD,

Defendants.

Case No.:

C08-01552

COMPLAINT
(42 U.S.C. § 1983)

DEMAND FOR JURY TRIAL

Plaintiffs, KRISTINA ENNIX SLAUGHTER and MITCHELL SLAUGHTER, by and
through their counsel, hereby allege as follows:

INTRODUCTION

1. On March 24, 2007, KRISTINA ENNIX SLAUGHTER and her husband,
MITCHELL SLAUGHTER, were detained and arrested in public at gun point by officers of the

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NOTICE OF ASSIGNMENT
TO MAGISTRATE JUDGE SENT

1 Emeryville Police Department in connection with a shoplifting incident that occurred at a
2 Victoria's Secret store in the City of Emeryville, California.

3 2. The police officers wrongfully arrested Plaintiffs on the basis of a false report
4 made by an employee of Victoria's Secret, Claudia Soto. In fact, Plaintiffs had not patronized
5 the Victoria's Secret store in question and a subsequent investigation, which included an
6 embarrassing and humiliating in-field line up in full public view and a thorough search of
7 Plaintiffs' vehicle revealed that Plaintiffs were innocent.

8 3. To vindicate their rights and to discourage such incidents of racial profiling and
9 violence against racial minorities, Plaintiffs bring this action pursuant to 42 U.S. §§ 1983 and
10 1988, the Fourth and Fourteenth Amendments to the United States Constitutions, and the laws
11 of the State of California.

12 **PARTIES**

13 4. Plaintiff KRISTINA ENNIX SLAUGHTER is an African-American female and
14 a resident of Alameda County. She is a graduate of University of California Los Angeles and is
15 an employee of the Oakland Unified School District.

16 5. Plaintiff MITCHELL SLAUGHTER is an African-American male and a resident
17 of Alameda County. He is the owner and operator of a bail bond business located in Alameda
18 County.

19 6. On information and belief, Defendant CITY OF EMERYVILLE is a municipal
20 corporation that owns, operates, and governs Defendant EMERYVILLE POLICE
21 DEPARTMENT pursuant to the laws of the State of California.

22 7. On information and belief, Defendants Officer E. WHITE ("WHITE") (#307),
23 and Officer S. ANDRETICH ("ANDRETICH") (#339) are and at all times material to this
24 complaint were employees of Defendants CITY OF EMERYVILLE and EMERYVILLE
25 POLICE DEPARTMENT.

26 8. On information and belief, Defendants CITY OF EMERYVILLE and
27 EMERYVILLE POLICE DEPARTMENT are and at all times material to this complaint were
28 responsible for the employment, training, supervision, and discipline of Defendants WHITE

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1 and ANDRETICH.

2 9. On information and belief, Defendants WHITE and ANDRETICH, sued here
3 in their individual and official capacities, were duly employed, appointed and acting as
4 officers of the Emeryville Police Department, acting under color of law to wit, under color of
5 the statutes, ordinances, regulations, policies, customs and usages of the State of California
6 and/or the City of Emeryville. On information and belief, Defendants WHITE and
7 ANDRETICH were also acting pursuant to a customary plan between Defendants
8 EMERYVILLE POLICE DEPARTMENT and VICTORIA'S SECRET in apprehending
9 subjects suspected of committing crimes at the Victoria's Secret store in Emeryville.

10 10. On information and belief, Defendant VICTORIA'S SECRET is a private
11 entity and a national retailer of women's wear. VICTORIA'S SECRET does business
12 throughout the State of California.

13 11. On information and belief, Defendant CLAUDIA SOTO ("SOTO") is a
14 resident of the State of California, and at all time material to this complaint was employed by
15 Defendant VICTORIA'S SECRET.

16 12. On information and belief, Defendant VICTORIA'S SECRET was at all times
17 material to this complaint responsible for the employment, training, supervision, and
18 discipline of Defendant SOTO. At all times material to this complaint, Defendant SOTO was
19 acting within the scope of her employment.

20 13. On information and belief, Defendants VICTORIA'S SECRET and SOTO
21 were acting pursuant to a customary plan between the EMERYVILLE POLICE
22 DEPARTMENT and VICTORIA'S SECRET in apprehending subjects suspected of
23 committing crimes in the Victoria's Secret store in Emeryville.

24 14. On information and belief, Defendant ABERCROMBIE & FITCH is a private
25 entity and a national clothing retailer. ABERCROMBIE & FITCH does business throughout
26 the State of California.

27 15. On information and belief, Defendant MELISSA BASFIELD ("BASFIELD")
28 is a resident of the State of California, and at all time material to this complaint was employed

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1 by Defendant ABERCROMBIE & FITCH. On the date in question, Defendant BASFIELD
2 was working at the Abercrombie & Fitch store located in the Bay Street mall in Emeryville,
3 California.

4 16. On information and belief, Defendant ABERCROMBIE & FITCH was at all
5 times material to this complaint responsible for the employment, training, supervision, and
6 discipline of Defendant BASFIELD. At all times material to this complaint, Defendant
7 BASFIELD was acting within the scope of her employment.

8 17. Plaintiffs are informed and believe that each Defendant was the agent or
9 employee of each of the other Defendants, and in perpetrating the wrongful conduct detailed
10 in this complaint, acted within the scope of such agency or employment, or ratified the acts of
11 the other.

12 18. Plaintiffs are informed and believe that each of the Defendants caused, and is
13 responsible for the below-described unlawful conduct and resulting injuries in that each of the
14 Defendants participated in the unlawful conduct or acted jointly with others who did so;
15 authorized, acquiesced in or set in motion actions that led to the unlawful conduct; failed to
16 take action to prevent the unlawful conduct; failed and refused with deliberate indifference to
17 Plaintiffs' rights to initiate and maintain adequate training and supervision; failed to prevent
18 further harm to Plaintiffs; and/or ratified the unlawful conduct and actions by employees and
19 agents under Defendants' direction and control, including failure to take remedial action.

20 **JURISDICTION AND VENUE**

21 19. This Court has subject matter jurisdiction over the parties and this action
22 pursuant to 28 U.S.C. §§ 1331 and 1343.

23 20. Pursuant to 42 U.S.C. § 1367(a), this Court has supplemental jurisdiction over
24 the state claims brought in this action, which arise from a common nucleus of operative facts
25 and from the same transactions and occurrences raised in Plaintiffs' federal causes of action.

26 21. Venue lies in United States District Court for the Northern District of
27 California pursuant to 28 U.S.C. §§ 84 and 1391 because a substantial part of the events
28 giving rise to the claims alleged in this complaint arose in the County of Alameda and one or

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1 more defendants reside in the County of Alameda or conduct business in the County of
2 Alameda.

3 **INTRADISTRICT ASSIGNMENT**

4 22. The claims alleged herein arose in the County of Alameda. This action is
5 properly assigned to the Oakland or San Francisco Division of the United States District Court
6 for the Northern District of California pursuant to Civil Local Rule, 3-2(d).

7 **STATEMENT OF FACTS**

8 23. In the afternoon of March 24, 2007, KRISTINA ENNIX SLAUGHTER and her
9 husband, MITCHELL SLAUGHTER were detained, arrested and imprisoned at gun point in the
10 City of Emeryville, California by officers of the Emeryville Police Department in connection
11 with a shoplifting incident that occurred at the Victoria's Secret store located in the Bay Street
12 mall in Emeryville.

13 24. Plaintiffs KRISTINA ENNIX SLAUGHTER and MITCHELL SLAUGHTER
14 were driving home after spending some time at the Bay Street mall in Emeryville when they
15 were pulled over without lawful justification by Officer WHITE of the Emeryville Police
16 Department. MITCHELL SLAUGHTER was driving and KRISTINA ENNIX SLAUGHTER
17 was in the front passenger seat. Plaintiffs' detention occurred at a location approximately one
18 mile from the Bay Street mall.

19 25. After enforcing the stop, Defendant WHITE exited his vehicle with his gun
20 drawn and took aim at MITCHELL SLAUGHTER ("MITCHELL"). Officer White
21 commanded MITCHELL to cut the engine off and told him to "get your fucking hands up."
22 The officer also commanded the passenger, KRISTINA ENNIX SLAUGHTER ("KRISTINA"),
23 to put her hands up.

24 26. Plaintiffs were detained at gun point in their vehicle, a Black GMC SUV, until
25 the cover officer, Defendant ANDRETICH, arrived on the scene. When Defendant
26 ANDRETICH arrived on the scene, he too drew his gun and aimed it at KRISTINA.

1 27. The police officers commanded MITCHELL SLAUGHTER to toss the vehicle
2 keys out of the driver's side window, to exit the vehicle and walk backwards towards them with
3 his hands up. MITCHELL followed the officers' commands.

4 28. Meanwhile, KRISTINA watched in fear and horror. She could see that
5 Defendant ANDRETICH had his gun trained on her.

6 29. MITCHELL was handcuffed and placed in one of the patrol vehicles.

7 30. Thereafter, KRISTINA was ordered out of the vehicle at gun point and
8 commanded to walk backwards towards the police officers with her hands up. KRISTINA was
9 also handcuffed and placed in a second patrol vehicle.

10 31. MITCHELL saw his wife being arrested at gun point. He too was traumatized
11 and feared for his wife's safety and well being.

12 32. The police officers then searched Plaintiffs' vehicle and did not find any
13 incriminating evidence. After completing their search of the vehicle, one of the officers
14 informed MITCHELL that they had received information that the Victoria's Secret store in the
15 Bay Street mall in Emeryville had been robbed. According to the officer, a Victoria's Secret
16 employee informed the Emeryville Police Department that the suspects were two black females
17 and that one of the suspects left the scene of the crime in Plaintiffs' vehicle.

18 33. KRISTINA and MITCHELL later learned that the alleged crime involving the
19 two unidentified black females was in fact a shoplifting incident and not a robbery.

20 34. KRISTINA and MITCHELL were handcuffed and imprisoned in Defendants'
21 patrol vehicles until the reporting party, Victoria's Secret store manager, Defendant CLAUDIA
22 SOTO, arrived on the scene. When Defendant SOTO arrived on the scene, KRISTINA was
23 taken out of the patrol vehicle in handcuffs and escorted to a public sidewalk next to a busy
24 thoroughfare for an in-field line up that was conducted in full public view. SOTO told the
25 officers that KRISTINA was not involved in the incident. Plaintiffs were subsequently
26 released, approximately one hour after their initial detention.

27 35. Significantly, Defendant SOTO'S report to the police regarding Plaintiffs'
28 involvement was false and was not based on SOTO'S personal knowledge. Plaintiffs had not

1 patronized the Victoria's Secret store on the date in question. Defendant SOTO relied on
2 information given to her by Defendant BASFIELD, an employee of Defendant
3 ABERCROMBIE & FITCH.

4 36. Defendant BASFIELD targeted Plaintiffs on the basis of assumptions and
5 Plaintiffs' race. Defendant BASFIELD was outside the Abercrombie & Fitch store when she
6 observed a black female walk past her carrying a bag. Defendant BASFIELD also observed
7 Defendant SOTO behind the black female and immediately assumed that the black female had
8 been involved in shoplifting. Defendant BASFIELD followed the black female and claims that
9 the black female got into Plaintiffs' vehicle, a black GMC SUV.

10 37. Plaintiffs are informed and believe that Defendant VICTORIA'S SECRET store
11 in the Bay Street mall has in the past and prior to Plaintiffs' unlawful detention and arrest,
12 experienced incidents of theft. Plaintiffs are informed and believe that Defendant
13 EMERYVILLE POLICE DEPARTMENT has in the past detained and arrested subjects
14 accused of committing thefts, burglaries and other property crimes at the Victoria's Secret store
15 in Emeryville. However, Defendant VICTORIA'S SECRET did not have surveillance cameras
16 installed in its Emeryville store and did not employ security personnel to monitor its premises.
17 Moreover, Defendant VICTORIA'S SECRET prohibited its employees from detaining
18 individuals suspected of shoplifting or committing other property crimes even if such
19 individuals could be positively identified as suspects. Instead, store policy required employees
20 to notify the police after the suspects left the store. Suspects were thereafter detained by the
21 Emeryville Police Department on the basis of reports made by employees or agents of
22 Victoria's Secret pursuant to a customary plan between Defendants EMERYVILLE POLICE
23 DEPARTMENT and VICTORIA'S SECRET, and without an independent investigation.

24 38. In this particular instance, Defendant SOTO claims to have recognized the two
25 unidentified black females when they entered the store and before they allegedly engaged in
26 shoplifting. The two black females were apparently involved in prior shoplifting incidents in
27 the store. However, Defendant SOTO did not contact the police as it was against store policy to
28 do so. She waited until the suspects left the store to contact the police.

STATEMENT OF DAMAGES

39. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs KRISTINA ENNIX SLAUGHTER and MITCHELL SLAUGHTER were unlawfully detained, searched, battered, arrested, and imprisoned. As a result of Defendants' acts and omissions, Plaintiffs sustained emotional distress, fear, humiliation, anxiety, and loss of physical liberty.

40. Defendants and each of them is liable for Plaintiffs' injuries and damages pursuant to Title 42 United States Code sections 1983; California Government Code sections 815.2, 815.6 and 820; and California Civil Code sections 51.7 and 52.1 as set forth below.

41. Defendants' acts and omissions were intentional, willful, malicious, reckless, and in conscious disregard of Plaintiffs' protected rights. As such and to deter future similar conduct by Defendants, Plaintiffs are entitled to an award of punitive damages against Defendants.

42. Plaintiffs are further entitled to statutory damages and penalties pursuant to California Civil Code sections 52(b) and 52.1(b); and attorney fees and costs pursuant to 42 U.S.C. section 1988 and California Civil Code sections 52(b) and 52.1(h), and other applicable statutes.

43. Pursuant to the requirements of the Government Tort Claims Act, Plaintiffs timely filed their notices of claim against the City of Emeryville. The City of Emeryville rejected Plaintiffs' claims by letter dated October 5, 2007.

FIRST CAUSE OF ACTION

42 U.S.C. § 1983

(Against Defendants WHITE, ANDRETICH and SOTO)

44. Plaintiffs incorporate by reference the allegations set forth above and below.

45. Defendants WHITE, ANDRETICH, and SOTO acted jointly and in concert with one another under color of law and deprived Plaintiffs of their constitutional rights, which include, but are not limited to, the following:

- (a) the right to be free from unreasonable detentions, searches, and seizures;
- (b) the right to be free from unlawful arrest and imprisonment;
- (c) the right to equal protection of the laws;

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(d) the right not to be deprived of liberty without due process of law;

(e) the right not to be subject to unreasonable and unjustified force against one's person.

46. The rights set forth above are embodied in clearly established constitutional law pursuant to the Fourth and Fourteenth Amendments to the United States Constitution.

47. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

SECOND CAUSE OF ACTION

42 U.S.C. § 1983

**(Against Defendants CITY OF EMERYVILLE and
EMERYVILLE POLICE DEPARTMENT)**

48. Plaintiffs incorporate by reference the allegations set forth above and below.

49. On information and belief, the unlawful conduct of Defendants WHITE and ANDRETICH was pursuant to and made possible by the customs, policies, practices, and/or procedures of the CITY OF EMERYVILLE and the EMERYVILLE POLICE DEPARTMENT, which include, but are not limited to, the following:

(a) engaging in, condoning, and/or failing to properly investigate or discipline racial discrimination and other equal protection violations;

(b) engaging in, condoning, and/or failing to properly investigate or discipline unreasonable detentions, searches, and seizures, use of excessive, unreasonable and unjustified force, false arrests, and due process violations;

(c) inadequately training and supervising officers, and failing to adopt and/or enforce policies and procedures for the proper training, and supervision of officers;

(d) inadequately investigating and failing to adopt and/or enforce rules, regulations, policies, and procedures for the proper investigation of and response to citizen complaints about officer misconduct.

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1 50. The rights set forth above are embodied in clearly established constitutional law
2 pursuant to the Fourth and Fourteenth Amendments to the United States Constitution.

3 51. As a result of the customs, policies, practices, and/or procedures listed above,
4 Defendants WHITE, and ANDRETICH believed that their actions would not be monitored,
5 investigated, or result in disciplinary action by their supervisors and would instead be tolerated
6 and/or condoned.

7 52. The foregoing customs, policies, practices, and/or procedures constitute
8 deliberate indifference on the part of Defendants CITY OF EMERYVILLE and EMERYVILLE
9 POLICE DEPARTMENT to Plaintiffs' constitutional rights.

10 53. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have
11 suffered, and will continue to suffer, the above stated damages in an amount according to proof,
12 including attorney fees and costs, to remedy the unlawful conduct.

13 WHEREFORE, Plaintiffs pray for relief as set forth herein.

14 **THIRD CAUSE OF ACTION**

15 **42 U.S.C. § 1983**

16 **(Against Defendant VICTORIA'S SECRET)**

17 54. Plaintiffs incorporate by reference the allegations set forth above and below.

18 55. On information and belief, the policies, customs and practices of Defendant
19 VICTORIA'S SECRET violated Plaintiffs' clearly established constitutional rights under the
20 Fourth and Fourteenth Amendments to the United States Constitution.

21 56. Despite having knowledge of prior incidents of burglary, theft and other property
22 crimes at its Emeryville store, Defendant VICTORIA'S SECRET did not install surveillance
23 cameras or employ security personnel to monitor its premises or apprehend criminal suspects.
24 Instead, Defendant VICTORIA'S SECRET instituted and maintained a policy that prohibited its
25 employees from detaining individuals who were reasonably suspected of committing property
26 crimes such as theft and burglary. Under Defendant's policy, employees were required to
27 contact the EMERYVILLE POLICE DEPARTMENT after criminal suspects left the store and
28 mingled with pedestrian traffic at the mall. The policy of Defendant VICTORIA'S SECRET
was instituted and maintained without due regard for the constitutional rights of the vast

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majority of members of the public who patronized the Bay Street Mall in Emeryville and who were not involved in criminal activity.

57. As a result of the customs, policies, practices, and/or procedures listed above, Defendant SOTO believed that her actions would not be monitored, investigated, or result in disciplinary action by her supervisors and would instead be approved, ratified, tolerated and/or condoned.

58. The foregoing customs, policies, practices, and/or procedures constitute deliberate indifference on the part of Defendant VICTORIA'S SECRET to Plaintiffs' constitutional rights.

59. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

FOURTH CAUSE OF ACTION

California Government Code § 815.6 - Breach of Mandatory Duty (Against Defendants CITY OF EMERYVILLE, EMERYVILLE POLICE DEPARTMENT, WHITE and ANDRETICH)

60. Plaintiffs incorporate by reference the allegations set forth above and below.

61. Defendants violated Plaintiffs clearly established rights enacted pursuant to United States and California law, which include, but are not limited to, the following:

(a) Fourth Amendment to the United States Constitution - right to be free from unreasonable detentions, searches, and seizures;

(b) Fourteenth Amendment to the United States Constitution - right to due process and equal protection of the laws;

(c) California Civil Code Section 43 - right of protection from bodily restraint or harm, from personal insult and from defamation;

(d) California Civil Code Section 51.7 - right to freedom from violence;

(e) California Civil Code Section 52.1 (b) - right to exercise civil rights.

62. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have

suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

FIFTH CAUSE OF ACTION

**California Government Code § 815.2 and *Respondeat Superior* Liability
(Against Defendants CITY OF EMERYVILLE, EMERYVILLE POLICE
DEPARTMENT, VICTORIA'S SECRET and ABERCROMBIE & FITCH)**

63. Plaintiffs incorporate by reference the allegations set forth above and below.

64. Defendants CITY OF EMERYVILLE, EMERYVILLE POLICE DEPARTMENT, VICTORIA'S SECRET and ABERCROMBIE & FITCH are liable for injuries to Plaintiffs proximately caused by the acts and omission of their employees within the scope of their employment.

65. On information and belief, Defendants WHITE and ANDRETICH are and at all times material to this complaint were employed by Defendants CITY OF EMERYVILLE and EMERYVILLE POLICE DEPARTMENT, and the wrongful conduct attributed to said Defendants were caused by their acts or omissions in the scope of their employment with Defendants CITY OF EMERYVILLE and EMERYVILLE POLICE DEPARTMENT.

66. On information and belief, Defendant SOTO is and at all times material to this complaint was employed by Defendant VICTORIA'S SECRET, and the wrongful conduct attributed to Defendant SOTO was caused by her acts or omissions in the scope of her employment with Defendant VICTORIA'S SECRET.

67. On information and belief, Defendant BASFIELD is and at all times material to this complaint was employed by Defendant ABERCROMBIE & FITCH, and the wrongful conduct attributed to Defendant BASFIELD was caused by her acts or omissions in the scope of her employment with Defendant ABERCROMBIE & FITCH.

68. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

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SIXTH CAUSE OF ACTION

False Imprisonment

**(Against Defendants CITY OF EMERYVILLE, EMERYVILLE
POLICE DEPARTMENT, WHITE and ANDRETICH)**

69. Plaintiffs incorporate by reference the allegations set forth above and below.

70. Acting within the scope of their employment with the CITY OF EMERYVILLE and EMERYVILLE POLICE DEPARTMENT, Defendants WHITE and ANDRETICH unlawfully detained, arrested and imprisoned Plaintiffs KRISTINA ENNIX SLAUGHTER and MITCHELL SLAUGHTER.

71. Defendants' warrantless detention and arrest of Plaintiffs was non-consensual, intentional and without lawful privilege.

72. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs KRISTINA ENNIX SLAUGHTER and MITCHELL SLAUGHTER have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

SEVENTH CAUSE OF ACTION

Assault and Battery

**(Against Defendants CITY OF EMERYVILLE, EMERYVILLE
POLICE DEPARTMENT, WHITE and ANDRETICH)**

73. Plaintiffs incorporate by reference the allegations set forth above and below.

74. Defendants WHITE and ANDRETICH assaulted and battered Plaintiffs KRISTINA ENNIX SLAUGHTER and MITCHELL SLAUGHTER. Defendants' conduct was intentional, nonconsensual, harmful, offensive and without lawful justification. Further, Defendants' conduct caused Plaintiffs to be placed in fear of personal harm.

75. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

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EIGHTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress
(Against All Defendants)

76. Plaintiffs incorporate by reference the allegations set forth above and below.

77. The conduct of Defendants was outrageous and directed at Plaintiffs. Defendants' conduct was intended to cause injury or was in reckless disregard of the probability of causing injury to Plaintiffs and did in fact cause Plaintiffs serious emotional distress.

78. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth below.

NINTH CAUSE OF ACTION
Invasion of Privacy
(Against All Defendants)

79. Plaintiffs incorporate by reference the allegations set forth above and below.

80. Article I, Section 1 of the California Constitution recognizes privacy as an inalienable right. Defendants intentionally intruded on Plaintiffs' solitude, seclusion, private affairs or concerns in a manner that was highly offensive. Defendants intruded on Plaintiffs' zones of physical and sensory privacy by falsely accusing Plaintiffs of criminal conduct.

81. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth below.

TENTH CAUSE OF ACTION
Violation of California Civil Code § 46 - Slander Per Se
(Against Defendants VICTORIA'S SECRET, SOTO,
ABERCROMBIE & FITCH and BASFIELD)

82. Plaintiffs incorporate by reference the allegations set forth above and below.

83. On March 24, 2007, Defendants falsely and without lawful privilege accused Plaintiffs of being involved in criminal activity.

84. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth below.

ELEVENTH CAUSE OF ACTION

Violation of California Civil Code § 52.1(b)

(Against Defendants CITY OF EMERYVILLE, EMERYVILLE POLICE DEPARTMENT, WHITE, ANDRETICH, VICTORIA'S SECRET and SOTO)

85. Plaintiffs incorporate by reference the allegations set forth above and below.

86. Defendants interfered with the exercise and enjoyment of Plaintiffs' clearly established rights under United States and California law, which include, but are not limited to, the following:

(a) Fourth Amendment to the United States Constitution and Article I, Section 13 of the California Constitution - right to be free from unreasonable detentions, searches, and seizures;

(b) Fourteenth Amendment to the United States Constitution and Article I, Section 7 of the California Constitution - right to due process and equal protection of the laws;

(c) Article I, Section 1 of the California Constitution - fundamental right to privacy;

(d) California Civil Code Section 43 - right of protection from bodily restraint or harm, from personal insult and from defamation;

(e) California Civil Code Section 46 - Slander;

(f) California Civil Code Section 51.7 - right to freedom from violence.

87. Defendants acted jointly and pursuant to a customary plan in violating Plaintiffs' clearly established rights under United States and California law by threats, intimidation and coercion.

88. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

1 WHEREFORE, Plaintiffs pray for relief as set forth herein.

2 **TWELFTH CAUSE OF ACTION**

3 **Violation of California Civil Code § 51.7**

4 **(Against Defendants CITY OF EMERYVILLE, EMERYVILLE POLICE
DEPARTMENT, WHITE, ANDRETICH, VICTORIA'S SECRET and SOTO)**

5 89. Plaintiffs incorporate by reference the allegations set forth above and below.

6 90. Defendants violated Plaintiffs' right to be free from violence or threat of violence
7 or intimidation by threat of violence on the basis of Plaintiffs' race or color.

8 91. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have
9 suffered, and will continue to suffer, the above stated damages in an amount according to proof,
10 including attorney fees and costs, to remedy the unlawful conduct.

11 WHEREFORE, Plaintiffs pray for relief as set forth herein.

12 **THIRTEENTH CAUSE OF ACTION**

13 **Negligence and Negligence Per Se
(Against All Defendants)**

14 92. Plaintiffs incorporate by reference the allegations set forth above and below.

15 93. At all relevant times, Defendants owed Plaintiffs the duty to act with reasonable
16 care and to refrain from:

- 17 (a) conducting unlawful detentions and arrests;
18 (b) violating the right to equal protection of the laws;
19 (c) violating the right to due process;
20 (d) violating Section 43 of the California Civil Code, which provides in pertinent
21 part that every person has the right of protection from bodily restraint or harm, from personal
22 insult, and from defamation.

23 94. Defendants also owed Plaintiffs the duty to adequately train and supervise
24 Defendants' employees, and to adopt and/or enforce policies and procedures for the proper
25 hiring, training, and supervising of Defendants' employees.

26 95. By their acts and omissions, Defendants breached each of the foregoing duties
27 owed to Plaintiffs. Further, it was reasonably foreseeable that such breaches of duty would
28 cause Plaintiffs physical and/or emotional harm.

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1 96. As a direct and proximate cause of Defendants' negligence, Plaintiffs have
2 suffered, and will continue to suffer, the above stated damages in an amount according to proof,
3 including attorney fees and costs, to remedy the unlawful conduct.

4 WHEREFORE, Plaintiffs pray for relief as set forth below.

5 **JURY TRIAL DEMAND**

6 97. Plaintiffs hereby request a jury trial in this action.

7 **RELIEF REQUESTED**

8 Wherefore, Plaintiffs respectfully requests that this Court grant the following relief:

- 9 1. Compensatory damages according to proof against all defendants;
10 2. Special damages according to proof against all defendants;
11 3. Statutory damages and penalties pursuant to California Civil Code sections 52(b)
12 and 52.1(b);
13 4. Punitive damages in an amount according to proof against all defendants;
14 5. Attorney fees and costs pursuant to 42 U.S.C. section 1988;
15 6. Attorney fees and costs pursuant to California Civil Code sections 52(b) and
16 52.1(h); and
17 7. Such other relief as the Court finds just and proper.

18
19 DATED: March 20, 2008

20
21 By: 

22 JIVAKA CANDAPPA, for Plaintiffs
23 KRISTINA ENNIX SLAUGHTER
24 and MITCHELL SLAUGHTER
25
26
27
28

AO 440 (Rev. 03/08) Civil Summons

UNITED STATES DISTRICT COURT

for the

Northern District of California

E-filing

Kristina Ennix Slaughter & Mitchell Slaughter

Plaintiff

v.

City of Emeryville, Emeryville Police Dept., et al.

Defendant

Civil Action No.

C08-01552

Summons in a Civil Action

To: **SEE ATTACHED.**
(Defendant's name)

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Jivaka Candappa, Attorney at Law
46 Shattuck Square, #15
Berkeley, CA 94704

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

MAR 20 2008

Date: _____

Richard W. Wieking

Name of clerk of court

CYNTHIA LENAHA

Deputy clerk's signature

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ATTACHMENT TO SUMMONS IN A CIVIL ACTION

Kristina Ennix Slaughter and Mitchell Slaughter vs. City of Emeryville et al.

Names and Addresses of Defendants

1. City of Emeryville, 1333 Park Avenue, Emeryville, CA 94608
2. Emeryville Police Department, 2449 Powell Street, Emeryville, CA 94608
3. E. White, Emeryville Police Department, 2449 Powell Street, Emeryville, CA
94608
4. S. Andretich, Emeryville Police Department, 2449 Powell Street, Emeryville, CA
94608
5. Victoria's Secret, 5672 Bay Street, Emeryville, CA 94608
6. Claudia Soto, Victoria's Secret, 2556 Somersville Road, Antioch CA 94509
7. Abercrombie & Fitch, 5680 Bay Street, Emeryville, CA 94608
8. Melissa Basfield, Abercrombie & Fitch, One Stoneridge Mall Space # B-110,
Pleasanton, CA 94588

Proof of Service

I declare under penalty of perjury that I served the summons and complaint in this case on _____,
by:

- (1) personally delivering a copy of each to the individual at this place, _____; or
- (2) leaving a copy of each at the individual's dwelling or usual place of abode with _____
who resides there and is of suitable age and discretion; or
- (3) delivering a copy of each to an agent authorized by appointment or by law to receive it whose name is
_____; or
- (4) returning the summons unexecuted to the court clerk on _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

Date: _____

Server's signature

Printed name and title

Server's address